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C O N F I D E N T I A L SECTION 01 OF 02 BANGKOK 002502

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SUBJECT: ANNULING THE ELECTIONS? THE COURTS DECIDE TO
THINK ABOUT IT

REF: BANGKOK 02425

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11. (C) SUMMARY: The chairs of the three high courts met April 28 to consider solutions to the political dilemmas posed by the April elections for members of parliament. They were responding to the very strong words of the respected King, who had delivered tough criticisms of the election during speeches on April 25. The courts today disappointed some in the opposition, who had hoped that they would annul the troubled elections on the spot. The courts only pledged that they would consider the many cases now before them calling for nullification or other measures, that they would do so expeditiously, and that they would consult together to ensure their decisions were consistent. This was immediately followed by a decision of the Administrative Court suspending the final round of voting scheduled for Saturday. This Administrative Court decision tends to support the view of many here who believe that the courts will eventually annul the elections, but the way forward is still not clear. If there are new elections after three or four months, Thaksin may decide that his "political break" is over, and try to come back as prime minister. If the courts do not annul the election, this controversy will result in an even further weakened mandate for this Parliament. END SUMMARY

12. (C) In response to the King's message on April 25, the chairs of the three high courts met today to consider solutions to the problems posed by the parliamentary elections (refftel). They announced after a meeting on Friday morning (April 28) that each court will work on the election-related cases under its jurisdiction, and that they will resolve them in a speedy fashion, but gave no deadline. They also said that the courts would consult together in order to ensure that the cases would be resolved in a consistent fashion. This announcement disappointed some who had hoped for a quick decision to annul the vote. The Administrative Court subsequently issued an injunction suspending the final round of voting scheduled for Saturday, pending a decision on whether to annul the entire series of election in April. The April 28 decision tends to support the view of many that the courts will ultimately decide to annul the vote.

COURTS AT ODDS

13. (C) According to leaked accounts in the press, the courts held differing views on the problem going in to the meeting. The Constitutional Court is generally considered to be lined up with the ruling Thai Rak Thai (TRT) party. It reportedly favors opening the new Parliament regardless of the complaints about the election procedures. (TRT leaders have also publicly supported that view.) The final round vote on Saturday would have gotten TRT close to the full quorum. Because the Electoral Commission (EC) opened up registration for new candidates again this week for Saturday's election, all 14 races in the remaining districts were multi-candidate. They should have produced "winners" in each case, even if they took the seat with only a few thousand votes. This would have left only one unfilled seat, since one TRT party list candidate has dropped out to join the monkhood. Until the Administrative Court injunction today, it might have been plausible to convene the slightly undersized Parliament, but this choice appear off the menu for now.

14. (C) The Supreme Court appears to support annulling the elections, but it may have a weaker claim to authority over the issue. The Administrative Court's position is less clear; it appears to have a stronger claim to jurisdiction over some of the key issues, and most of the lawsuits filed against the elections are before this court now. These lawsuits call for annulling the election and even for annulling the decree dissolving the previous Parliament, based on legal and procedural errors. For example, one suit claims that the Constitution limits the circumstances under which the Parliament can be dissolved, and that those conditions were not met. Others claim that the voters'

constitutionally guaranteed rights to secrecy were violated by the new position of the voting booths, which allowed the voters' ballots to be seen. Other suits claim that the registration of new candidates after the first round of voting was illegal.

15. (C) Before the King's speech, it appeared unlikely that any of these suits would actually result in the annulling of the elections, but now it is possible. In Bangkok, the so-called "Bangkok elite", the anti-Thaksin press and opposition seem to think that this will happen. The NSC Secretary-General told us that the King made it "very clear"

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that these elections were "not acceptable." (Comment: "Very clear" is stretching it, but it's all relative. End comment)
Political party contacts are already talking about the likelihood of new elections in July or August, to give time for people to switch parties.

LIMBO

16. (C) The justices' very broad assurances leave a lot of questions unanswered. There are several possible ways forward from this point. If the next round of the elections is not held, it does not appear that that Parliament can legally convene. The current caretaker government would presumably continue in power until the lawsuits are resolved, and the country would be without a House of Representatives until the courts examine all the cases. Political limbo would likely continue.

WHAT ABOUT THAKSIN?

17. (C) The caretaker Prime Minister is traveling abroad and has made no public comment since the King's speech. There is a lot of speculation about how the courts' eventual decision will affect his pledge to "take a break" from politics for the next session of parliament. Thaksin's explanation emphasized that he was stepping aside in large part out of respect for the King, to ensure that the country could concentrate on the upcoming celebrations for his 60th anniversary in June. If there are new elections in, say, August, Thaksin conceivably could decide that break time was over. He could plan to return as PM if TRT won its expected majority (although the opposition parties would almost certainly do much better than they did in 2005, particularly in Bangkok and the central region.)

COMMENT -- THE SUSPENSE IS KILLING US

18. (C) The repercussions of the King's speech are still playing out. More information about the courts' views should come out in the near future, together with at least a notional timeline for the courts' decisions. If the courts rule that the elections should not be annulled, there will be considerable backlash; the controversy will further erode the legitimacy of a parliament that already suffers from an extraordinarily weak claim to a mandate. If they annul the vote, we're largely back to where we started in February.

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